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the ROYAL COMMISSION on the NORTHERN ENVIRONMENT



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INTERIM REPORT
OF
THE ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT
MR. JUSTICE E.P. HARTT
APRIL 4, 1978



ACKNOWLEDGEMENTS

I have received a great deal of assistance from many sources since this Commission was established. Departments of the Federal and Ontario governments have shared their information resources freely, and helped me in many other ways. The Commission's staff and counsel have worked loyally and indefatigably, often under trying circumstances. In particular, the staff responsible for the northern meetings provided an indispensable level of support in an enterprise fraught with uncertainty.

Most of what I learned in the last eight months, I learned directly from northerners, and to them I acknowledge my deep indebtedness. Wherever I went in the north I encountered warmth and generosity, a willingness to explain, an eagerness to understand. They made truly heroic contributions of time and energy; without their good will my task would have been impossible.

The north has made me welcome in its towns, in its remote communities, and on its Indian reserves. To all its inhabitants - white, Metis and Indian alike - I express my heartfelt thanks.

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I. NORTH OF 50⁰ - A DESCRIPTION

That part of Ontario which concerns this Commission is largely unknown to most Ontarians. It lies above the fiftieth parallel of latitude which divides, almost in half, Ontario's 412,000 square miles. Only one in every two hundred of the province's residents live there.

It is a vast land of forests, lakes and tundra. Its landscape is mainly flat, its climate severe and its soil is sparse. It is a land of moose, caribou, fur-bearing animals and many species of birds and fish.

This vast area must not be seen as a single homogeneous entity; the rocks and forests around Red Lake contrast sharply with the muskeg near Moosonee and the barren tundra near Hudson Bay.

From the south, the north is seen as a frontier, awaiting development, an area of timber and minerals the size of Manitoba. But for two-thirds of the 30,000 people who live north of 50⁰, the land, the forests, and the lakes are a traditional home and source of life. The Indian people live in small, isolated communities scattered throughout the boreal forests of Northwestern Ontario and dotted along the northern coastline and the major rivers of the Arctic watershed. Other northerners live in larger communities just north of 50⁰, their location determined by the transcontinental railway, the harvesting of timber, the mining of minerals, the tourists' search for good fishing and hunting.

Sioux Lookout is the largest community north of 50⁰ with 3,100 residents. It, like other northern communities, lacks amenities that are taken for granted in the south. Services there, like everything else, cost more. Yet this has not halted the gradual northward expansion of resource development. Northwestern Ontario boasts the province's most northerly operating mine at Pickle Lake, planned timber harvesting has pushed farther north still, and a lignite mine is planned for Onakawana, only sixty miles from James Bay.

Economic growth in the north has been erratic, as those who have experienced life in boom-and-bust towns well know. Resource-based enterprises and the communities they have sponsored have nonetheless steadily encroached on the traditional pursuits of the Indian people. Some Indians now work for wages, but most combine hunting, trapping, fishing, or wild rice harvesting with an increasing dependence on Federal payments.

For all northerners, future development is a major preoccupation.

II. MANDATE OF THE ROYAL COMMISSION

We have all realized in recent years that the impacts of development may not always be beneficial, that the exploitation of a particular resource can impose significant unacceptable burdens on our environment, on ourselves and our communities. Government has acted in a number of ways that reflect this awareness. The Environmental Assessment Act passed in 1975 and the appointment of this Commission represent attempts to assess the effects of developments before they occur.

The Royal Commission on the Northern Environment was established on July 13, 1977 by an Order-in-Council of the Ontario Cabinet that named me as Commissioner. I was asked to assess the environmental effects of major enterprises in the north, to recommend methods for their assessment and to examine alternative uses for northern resources.

The Order-in-Council defined "environment" to include not only the natural environment but also the social, economic and cultural conditions influencing the lives of people and their communities. (Copy of Order-in-Council attached in the Appendix).

While the terms of reference were defined broadly, the legal framework for the Commission's operations was more limiting. The Commission was established under the Public Inquiries Act. This is an Act better suited for investigating past wrongdoing than it is for assessing future development. Inquiries normally rely

heavily on formal hearings of an adversarial nature. In my view, such formal approaches tend to polarize positions that might otherwise grow closer as issues in dispute are gradually resolved, and my preference is for more informal meetings.

My principal concern has been the magnitude of the task the Commission had been called upon to perform. Obviously, the Commission needed guidance, particularly from northerners, so that its energies would not be dissipated by lack of a proper focus. I also required more information from those government agencies with northern responsibilities, and enterprises with experience or plans involving resource development in the north of this province. Consequently, the Commission scheduled a series of preliminary meetings, beginning early last November and ending in early February of this year.

III. PRELIMINARY MEETINGS

The Commission held meetings in fourteen northern communities*. Some of these are located south of 50, but all are closely linked to the north by geography and resource development. Northern problems are not bounded by an arbitrary line on a map. In addition, meetings were held in Toronto to ensure that various concerned groups could bring forward their comments, and to highlight the interrelationship of the south and the north when considering the impact of major resource developments.

I have listened to many submissions and comments during the weeks of hearings and have carefully studied the issues brought forward. The participants in these preliminary hearings took great pains to prepare their submissions, and in many cases travelled considerable distances to make their presentations. The Commission acknowledges, with thanks, their dedication and selflessness.

* Sioux Lookout, Dryden, Red Lake, Ear Falls, Pickle Lake, New Osnaburgh, Geraldton, Nakina, Timmins, Kenora, Whitedog, Sandy Lake, Moosonee and Moose Factory.

The perceived impacts of major undertakings, such as the Reed, Onakawana and Polar Gar projects, were especially drawn to my attention. Some people spoke of the importance of projects such as these for the economic survival of their towns. Others described for me the serious social impact past developments have had on their communities. A common theme in the north running through a large number of briefs, including some from industry, was for more carefully planned and controlled development in the future so as to ensure local benefits and to prevent social disruption and environmental damage. A large number of briefs called for more careful management of the forest resources and more effective regeneration. More programs to meet the need for job training were called for, as well as a better means of ensuring that Indian residents share in the benefits of development.

Opinion on the adequacy of Ontario's Environmental Assessment Act to deal with major resource development proposals in northern regions reflected a lack of confidence in its untested process, and a lack of detailed knowledge of its intended method of operation. Some maintained that the Act fails to provide for adequate public involvement in shaping the proponent's assessment. Others were concerned that the Act's process had been designed without consideration for the northern environment. The need was also stressed for more effective but streamlined regulations to control adverse effects on the environment without needlessly delaying ventures in a maze of red tape.

The Indian people expressed on many occasions, and most eloquently, their fears that development could destroy their traditional culture and livelihood. In presentations from the Grand Councils of Treaties 3 and 9 and from individual Indian spokesmen, it was again and again pointed out that treaty provisions have not been honoured by Government. They talked of their special relationship to the land, their fears that uncontrolled development would destroy their culture and traditional economic pursuits, and their need for better education and training to cope with the changes being forced upon them.

They were particularly concerned about the issue of harvesting wild rice, which is a basis of income, employment and social interaction and has religious significance for some Indian communities. They fear that this important traditional base of their economy and culture may be lost to them through proposed Government change to the wild rice policy.

Concern was also expressed regarding the Province's recently imposed quota system for commercial fishing. I was told that the effect of the quotas and the way in which they have been applied would be to destroy the economic base of several communities.

Most shocking to me were the submissions that described the plight of the people on the Indian reserves at Whitedog and Grassy Narrows who have now suffered for more than eight years because of mercury pollution of the rivers on which they had previously depended for food and livelihood. Their presentations gave me an unforgettable sense of their frustration with the inability of the Federal and Provincial Governments to work together to ease their desperate situation.

Many people expressed concerns about inadequate transportation and the need for improved air services. It is felt that freight rates are too high and that decisions are being made without adequate sensitivity to the wishes and needs of the local residents, as for example with the planned changes to rail service affecting Sioux Lookout. In the related area of communications, local television and radio programming was seen to be inadequate particularly for Native people. The telephone communications system was described as needing improvement as well. That some of these problems are the responsibility of the Federal rather than the Provincial Government simply brings to light another deeper concern emanating from the Commission's hearings, namely, that overlapping Federal-Provincial jurisdictions hamper the solution of problems and confuse those seeking improvement.

Municipalities and unorganized communities referred to problems with townsite development, the instability of small resource based communities and the lack of

an adequate financial base. A major irritant was the regulation passed in 1974 under the Mining Tax Act that disallowed as tax deductions expenditures by mining companies on social assets - the housing and recreational facilities that contribute towards greater stability in northern towns. I questioned representatives of the Ontario Government about this regulation and note that the Budget of March 7, 1978 responded to this concern by undertaking to allow deductions of operating and maintenance costs of social assets. Numerous other problems were raised regarding education, facilities for health care, senior citizens, and recreation.

There can be little doubt that the citizens of the north have much to be concerned about. Many of the problems they have raised are serious enough to demand immediate attention. In addition, a growing stress and bitterness - felt by both white and Native alike - is caused by the absence of a shared understanding of what the north should be like. A common acceptance and endorsement of "controlled development" runs through almost every presentation. Yet, this phrase has different meanings for different people. Conflict between whites and Native people in Northern Ontario is primarily and most fundamentally a conflict over the images in terms of which life is to be lived. It is naive to think that this fundamental clash need not be dealt with explicitly, but can be worked out as one works through particular detailed arrangements. It is especially naive, given the increasing consciousness of the Indian people with regard to their culture and identity, and given the degree to which policies, programs and structures have been put in place in Northern Ontario. The support of both the Provincial and the Federal governments for such policies and programs merely reflects and reinforces a southern understanding of life, and forecloses that understanding advocated by the Indians.

In short, it is not possible to deal with the issues which were raised in the preliminary meetings separately and piecemeal, as if the successful resolution of each one would add up to a successful resolution of what northerners wish for their future. This might be the case if all persons living in Northern Ontario were committed to a single understanding of life, but it is precisely this condition which is absent. The people and the Government of Ontario must face this fact and its implications.

I could go on at length relating problems placed before me during the preliminary meetings. However, my intention in this report is simply to give a flavour of the diversity of concerns raised. The Commission staff is currently compiling a report, for later release, which categorizes and analyzes the issues in more detail than is appropriate here. By encouraging northern residents and organizations to speak on subjects they consider relevant, our preliminary meetings have highlighted a myriad of complaints, hopes and fears. One would have to be insensitive to ignore them.

In the following pages, I have attempted to highlight certain more fundamental issues and specific concerns which must be understood and acted upon by Government. I have also discussed what actions the Commission can best take over the next two years.

IV. RESOURCE DEVELOPMENT IN THE NORTH

The north is often thought of as a storehouse of wealth supporting the economy of the Province. Although northern resource industries, such as forestry and mining, are clearly a major component of the Provincial economy, the myth of limitless resources must be set to rest. The forests of Ontario are rapidly being depleted and regeneration has not kept pace. As a consequence, timber cutting has moved steadily northwards. Already about 11% of the annual timber harvest is cut north of 50. In many places, however, the north is not suitable for tree growth due to poor soils and extreme climate. It is only in the West Patricia area of the Northwest that major renewable timber resources remain. Even these resources are likely to be needed to supply the demands of existing mills rather than to feed an expanding industry, and it will only be through vigorous steps to improve forest management that long-term shortages will be averted.

The mineral resources of the north are legend. There is potential for further significant finds and for development of existing ore bodies. However, the combination of an economic recession and competition from foreign producers has slowed the pace of the mining industry. High costs of production and low prices, coupled with scarcity of funds, have resulted in several major ore bodies, such as that at Lake Joseph, being undeveloped and have caused difficulties for existing producers

such as the Union Miniere Exploration and Mining Co. Ltd. at Pickle Lake.

In the current atmosphere of concern for unemployment and slow growth, an increasing chorus of objections to Government regulations and environmental controls can be heard from industry and some segments of the Government itself. It has been stated that excessive attention to social and environmental concerns has damaged our economy, our competitiveness and our image as a desirable place to invest. Although I accept that industry might be inclined to delay or divert its investments in a situation of marginal profitability, I do not accept that a relaxation of our concerns with the quality of life and the protection of our surroundings is necessary or desirable. Environmental considerations are now a fact of life in nearly all parts of North America and Europe.

I do sympathize, however, with the fragmentation of responsibility and the confusing procedural requirements which industry faces in dealing with Government, and agree that this can cause frustrating delays. It would be most desirable for the Ontario Government to examine how to streamline regulations and the multitude of administrative procedures with which industry has to contend, while at the same time maintaining essential principles. Despite these problems, an examination of existing and proposed developments in the north shows that overall economic conditions and an inadequate economic and planning framework within which northern development should occur are at the root of present difficulties.

The Ontario Government could profitably devote its attention to defining a clear and more comprehensive policy for northern development in the context of overall Provincial objectives. Development and environmental concerns are not incompatible. The great majority of participants in our preliminary meetings strongly supported the principle of controlled development. Controlled development requires a continuing effort to maximize the benefits and minimize the harmful aspects of projects in the context of social and cultural objectives. The question is realistically not whether to have growth or no growth, but rather

the nature, quality and pace of growth desired. There is an increasing acceptance that social problems cannot be bought off with the hopes and rewards of uncontrolled economic expansion and resource exploitation. Submissions from corporations, such as Onakawana Development Limited, have shown acceptance of environmental controls as long as the requirements are clearly articulated. What is needed is a comprehensive strategy for development in terms of overall economic and environmental objectives which takes full account of the unique circumstances prevailing in the north.

Major Proposed Projects

Three major enterprises are presently under consideration for the area north of 50.

(1) Reed Ltd. has signed a memorandum of understanding with the Government of Ontario relating to a proposed forestry complex in Northwestern Ontario. However, this document does not commit the Company to proceed with this venture. The project has been designated under the Ontario Environmental Assessment Act and latest plans call for hearings by the Environmental Assessment Board starting in 1980. This would follow completion of a forest inventory by the Ministry of Natural Resources, an environmental assessment by the Company, and review of the assessment by the Ministry of the Environment. Reed has reported substantial losses for its past operating year and the project may very well be abandoned. However, even if the Company does not proceed with its present plans, there will be mounting pressure to harvest the existing forest resource because of the steadily declining availability of suitable timber in other areas of the Province.

(2) Polar Gas Limited has applied to the National Energy Board to construct a pipeline from the Arctic Islands which would pass through Northern Ontario and link up with existing gas transmission lines near Geraldton. The timing of this project now appears unclear, due to uncertainties as to when the gas might be needed, alternate delivery methods and the massive financial requirements. Recently, there has been considerable speculation that this project will be delayed until well into the 1990's, although it is always difficult to make predictions in the rapidly shifting energy field.

Because the proposed project is an interprovincial pipeline, it falls under Federal jurisdiction. As well as the environmental scrutiny the project will receive from the National Energy Board, it is also subject to a Federal Environmental Assessment and Review Process (EARP). The division of responsibility between the Board and EARP is not yet clear, at least in my mind. Polar Gas must prepare an environmental impact statement for review by a special EARP environmental assessment panel. The members of this panel are appointed by the Federal Department of Fisheries and Environment Canada. These members can be public servants and usually are. Their recommendations on the project's impact on the environment are considered by the Minister of this department who then decides whether the project should proceed, and if so, with what modifications.

It is my understanding that Ontario's Ministry of the Environment will be coordinating a review of the project for the Province and will appear as a party at any hearing held by the Federal EARP panel. Should the project's assessment proceed at the Federal level, the Commission intends to issue recommendations on the appropriate involvement of the people and communities of the north of Ontario, the Government of Ontario and this Commission.

(3) Onakawana Development Limited has plans for a major lignite mine south of Moosonee, and a 21 year lease for the project was recently signed between the Company and the Ontario Government. The lease requires the Company to be mining lignite within seven to nine years or such longer period as approved by the Minister of Natural Resources. The Minister of Natural Resources may also

terminate the lease should in his opinion a statutorily authorized inquiry into the effects of the project find that it "is detrimental to or is against the interest of the people of the whole or part of Ontario..." If the project is to proceed, such an inquiry will be conducted since it has been designated under the Environmental Assessment Act. It is the Commission's understanding that the preparation of the required environmental assessment by the Company has commenced.

Some uncertainty remains about the ultimate form of the entire development and whether Ontario Hydro will also locate at the site to burn the lignite for production of electrical power. Due to this uncertainty, it is difficult to predict at this point the scope and content required for the environmental assessment, let alone the contribution the mine would make to the regional economy.

A number of other companies are currently engaged in mineral exploration, or evaluating known ore bodies. Hudbay Mining Limited has conducted reconnaissance work fifty miles north of Cochrane and identified the area as promising for base metals. Kerr Addison Company Limited plans to carry out further exploratory work in the Township of Valentine, about seventy miles southwest of Moosonee. Amoco Canada Petroleum holds a twenty-one year lease of mining rights in an area some seven miles north of Detour Lake. The company has commenced work underground to further assess an ore body estimated at some 10 million tons of marginal gold ore. Prospection Limited, encouraged by the possibility of uranium deposits, has been granted an exploratory license for all minerals on some one million, three hundred thousand acres of land, southwest of Cape Henrietta Maria and the Polar Bear Provincial Park.

I am informed that the development of mining lands, mineral management and seismic exploration and drilling will all be subjected to environmental assessment in the not too distant future. Given the concerns expressed to me at a number of the preliminary meetings, I would hope that the Government will move quickly to ensure environmental assessments of mineral exploration activities, particularly as they affect Indian communities. Further, the information that these communities receive about prospecting activities must be improved in timing and content.

In addition to these projects, a number of hydroelectric and water diversion schemes have been proposed or are under study north of 50. On the English River, the Ear Falls extension and a new plant at Maynard Falls are planned and will be recommended by Ontario Hydro for review under the Environmental Assessment Act. Most other studies are still in the feasibility stage. Considerable concern was expressed during the hearings about power developments and diversions of major rivers such as the Albany. Although some preliminary analyses of these situations have apparently been undertaken, we see no indication that a point of decision is imminent. Examination of this subject by the Royal Commission on Electric Power Planning will doubtless shed light on whether there is any potential in the foreseeable future for a major system of this type. If such should be the case, a complete environmental review would be critical; for now, however, this is premature.

V. THE ENVIRONMENTAL ASSESSMENT ACT

The Commission's efforts are closely tied to the methods government has already adopted to make decisions involving the environmental effects of proposed enterprises.

In 1975, the Ontario Legislature passed the Environmental Assessment Act, the first legislation in this Province designed to provide a comprehensive review and evaluation of large scale projects with significant environmental effects.

The broad scope of the Act flows from the meaning given to the "environment", which it defines to include not simply the natural environment, but also the "social, economic and cultural conditions that influence the life of man or the community". This definition of "environment" was adopted by the Order-in-Council establishing this Commission and provides the basis for a more human examination of the ways in which resource development in the north have affected and will continue to affect the lives of the people who live there.

The Environmental Assessment Act applies to all undertakings in the public sector (unless exempted), and to major enterprises in the private sector which are designated by regulation. As I write this report, the Reed and Onakawana projects are the only two private undertakings north of 50 which have been brought under the Act. In neither case has the proponent yet completed an environmental assessment as will be required under the Act if they proceed with their projects.

Once an undertaking is subject to the Statute, it cannot proceed without ministerial approval. To obtain such approval, the proponent must first prepare an environmental assessment of the project. This environmental assessment is then reviewed within the Government under the supervision of the Ministry of the Environment. It is only after this review has been completed that the Act provides for public hearings, and these take place before the Environmental Assessment Board whose members are appointed by Cabinet. Following hearings, the Board decides whether the project should go ahead or not. However, the Minister of the Environment has a month in which to reverse the Board's decision if he so wishes.

Apprehension was expressed during the Commission's preliminary meetings about the suitability of the Act for the assessment of major projects in the fragile environment of the North. Grand Council Treaty 9, in particular, criticized the Act for failing to provide a means for early consultation and discussion with its local communities and its people about proposed projects. I was told that without this early involvement of affected communities, neither the proponent nor the Government was likely to appreciate the social and cultural implications of a project such as Onakawana on the people of the north. I was told, too, that the absence of any provisions for public funding in the Act made effective participation in the assessment process virtually impossible.

While these concerns may be justified, we must remember that the Act has yet to be applied. It would be premature on my part to suggest that the Environmental Assessment Act be radically changed or set aside. Such a forward looking piece of legislation deserves to be tested. The people administering the Act deserve the

opportunity to gain experience in assessing a major northern project such as Reed or Onakawana and in relating it to the needs and priorities of affected communities.

Moreover, in my view, much of the suspicion about the Act would be overcome if the Government and the proponent provided more information about specific projects and sought the participation of the public from the beginning of the assessment process.

It is unrealistic to expect the proponent of a project to search for all of its potentially undesirable consequences or for possible alternatives to the project itself. Early participation would help to ensure that these and other considerations relevant to a particular area or community are taken into account; it would promote public confidence in and acceptance of the process, and ultimately the project itself, should it be approved.

Although under the present legislation, the proponent is under no obligation to consult with local people or communities in preparing its environmental assessment, or in defining the scope of the assessment, I would hope that such consultation would be initiated voluntarily by the proponent and by the Government. Indeed, without such consultation, I fail to see how either the proponent or the Ministry, can expect to take account of the complete range of social, economic and cultural concerns of the local communities and people affected.

I also sense a lack of understanding on the part of many northerners as to how the Act is intended to operate and a lack of public awareness as to its applicability. One example is the Atikokan Generating Station being built by Ontario Hydro. Although that project has been exempted from the Environmental Assessment Act, the local communities are not clear why this was done, and they fear the potential environmental effects of the project on their future lives.

Conflicting information has been disseminated from various jurisdictions in the United States and Canada which have become involved. Part of the conflict is doubtless due to the different approaches of the various jurisdictions in judging the

"acceptability" of pollution levels, and this is further complicated by the technical nature of the subject and the difficulty of isolating sources and judging possible combined effects. What is clear is that the resultant confusion leads to mistrust and suspicion, as those who are potentially affected lose trust in the assurances given to them by Ontario Hydro and the Government.

I consider it imperative that the Government of Ontario should immediately provide comprehensive information on the planned Atikokan Generating Station, and in consultation with local affected people and communities, ensure public discussion of this information to promote understanding of the project and its possible environmental effects.

This Commission owes its origin, in part, to a lack of faith of some northerners with present environmental legislation. The Commission's terms of reference were designed to increase opportunities for early public discussion and involvement, to allow specific concerns about a project to be voiced before a formal environmental assessment had been completed, to focus on the problems of communities immediately affected by resource development and to provide a planning mechanism that would be able to assess not only the environmental effects of one project but their impact in relation to other enterprises in the north.

The Commission was formally established under the provisions of the Public Inquiries Act. This was not the Government's original intention. A proposed amendment to the Environmental Assessment Act, under which the Commission was to have been appointed, failed to receive approval in the Legislature last July. The proposed amendment provided for an inquiry into any matter related to the protection, conservation and wise management of Ontario's environment, and allowed for more informal and flexible procedures than the Commission now has under the Public Inquiries Act.

As part of its mandate and with the experience which it gains over the next two years, the Commission intends to consider the amendment proposed last July as well as other possible ways to strengthen the Environmental Assessment Act and make it more acceptable to affected people and communities.

VI. GOVERNMENT AND THE NORTH

Running through a great many of the submissions was the expressed wish for greater and more meaningful participation by northerners in decisions affecting them. An overbearing southern influence, unfamiliar with the peculiarities of the north, was seen imposing its solutions from afar. It was felt that southern standards, in housing for example, are often applied to the north when they are not appropriate, resulting in excessive costs to those concerned. It is very clear that in terms of the needs for Government and Government programs, the north is very different from the south. This observation is, of course, not novel, but Government programs to date have not reflected this difference. A notable exception is the establishment of the Ministry of Northern Affairs, but time must unfold before it is clear what real impact this will have on priorities, the delivery of services and Government decision making.

Ideally, a region should develop along lines preferred by those who live in it. However, trade-offs between regions and among objectives must always be made and to handle these trade-offs, processes have been developed whereby Governments have assumed even greater responsibility. The north is characterized by a pluralistic population with a broad geographical spread. Each pluralistic sector has begun to infringe more and more on the real or perceived rights of other groupings. In these circumstances, the traditional criterion of the greatest good for the greatest number is really not workable, and new mechanisms of Government are needed.

Often projects proceed and the development of a region takes place because of decisions made by and for the benefit of the private sector. Government has tried to broaden such considerations through the examination of social and economic benefits and costs and through legislative provisions such as the Environmental Assessment Act. Regrettably, an undercurrent of dissatisfaction with the decision making process continues and this is reflected in the continuing pressure for greater and more effective public participation. When one recognizes the increasing complexity of decisions relating to major resource developments, the

intergovernmental overlaps and the major cultural schism between the Indians and whites of the North, it becomes understandable why there are cries for improvement in the process of decision making.

The entire process of legislative development and policy formulation as it affects people of the north (or presumably any citizens) is seen to be mysterious and overly secretive. The impression gained by many is that bureaucrats and politicians located in the south do not see the need for input to decisions by those affected until they are essentially firm and irrevocable.

In my view, there are problems with the decision process which underlie many of the issues which have been placed before the Commission. The issues are really symptoms of a disease which, unless cured, will simply produce more problems as time goes by. I believe it is essential for the Government to carefully heed these sentiments and to search out with the people of the north ways to involve them more fully in the process of Government.

A very large number of local issues, or local impacts of broader Provincial actions, were raised before the Commission. Many of these were not directly related to major resource development proposals but were instead comments on the state of present Government services. Many are a consequence of the difficulties imposed by the great distances, sparse population and the natural elements characteristic of the north. On the other hand, running through the briefs and discussions was the theme of alienation, the feeling that a far off southern Government does not understand the needs of northerners and too often makes decisions without consulting them. Trenchant analyses along these lines were made by various municipalities and by the group representing unorganized communities. This theme is, to a degree, in harmony with that of the Indian communities, which also expressed a desire for more local involvement in decision making and more sensitivity by the Government to specific northern needs.

Among the generic problems of northern communities which have been identified are:

- (1) the lack of an adequate or permanent economic base;
- (2) inadequate services and facilities of various kinds; and
- (3) perceived remoteness from decision-making.

Attempting to cope with these problems by resolving them exclusively on an individual community basis is probably unrealistic. The extreme smallness of many communities militates against workable policies or programs, and some type of cooperative arrangements or even pooling of resources might be desirable. This raises the question of the need for more broadly based approaches or structures covering wide geographical areas or dealing with particular functional areas (the District Health Council concept is one such structure). Consideration of such concepts would immediately raise the question of Indian-white relationships and whether there could or should be one approach for white communities and another for the reserves.

Without attempting to delve any further into specific arrangements, the benefits of broader based approaches in terms of stability, capability for self-help and ability to influence actions by Government are apparent. It might be possible through such approaches, or with appropriate institutions, if established, to have the capability to either review relevant proposed Ministry capital expenditures or to even prepare 'district' development plans which, on approval by the Provincial Government, would guide spending programs of the Ministries in the district.

This whole problem involves so many considerations, from social services such as education and care for the elderly, to other services such as roads and waste treatment, that it would be unwise to try to suggest any actions to achieve fundamental improvements based upon a cursory examination. These 'local' problems must be addressed by the people of the north directly and they must be given the opportunity to form judgments among themselves for the Government to consider rather than having to react to initiatives from the bureaucracy at Queen's Park.

VII. THE NATIVE PEOPLE

Two-thirds of the people living north of 50 are Indians; descendents of people who inhabited this area centuries before Europeans came to North America. Most of these Cree and Ojibway people live in some forty small scattered communities stretching as far north as Fort Severn on Hudson Bay. A few of their communities are on Provincial Crown land but most are located on reserves, land set aside for the Indian people's exclusive use.

Treaties 3 and 5 cover areas in the Northwest of the Province and were signed in 1873 and 1875, respectively, by the Federal Government and resident Indians. Treaty 9, which covers the bulk of the land north of 50, was signed in 1905, with the Provincial Government a signatory as well, and with later adhesions in 1929 and 1930. These post-Confederation treaties were agreements of a special nature; they gave access to the land to the Euro-Canadian interests wishing development while at the same time guaranteeing the Indians continued hunting, fishing and trapping rights, plus exclusive use of reserve lands. It is clear that the Indians and the Governments had, and still have, differing views of the intent and meaning of the treaties, and this has led to bitterness and disillusionment over the years.

To a large extent, the Indians maintain a way of life based on their culture and their traditions which differentiate them from other northerners - many speak only their Native language. They depend on the land and its renewable resources, following their traditional pursuits of hunting, fishing, trapping and wild rice harvesting. Unfortunately, these resource bases are gradually being eroded as development pushes farther north. The Indian people are now struggling to survive, trying to preserve some of the past while seeking ways to improve their future.

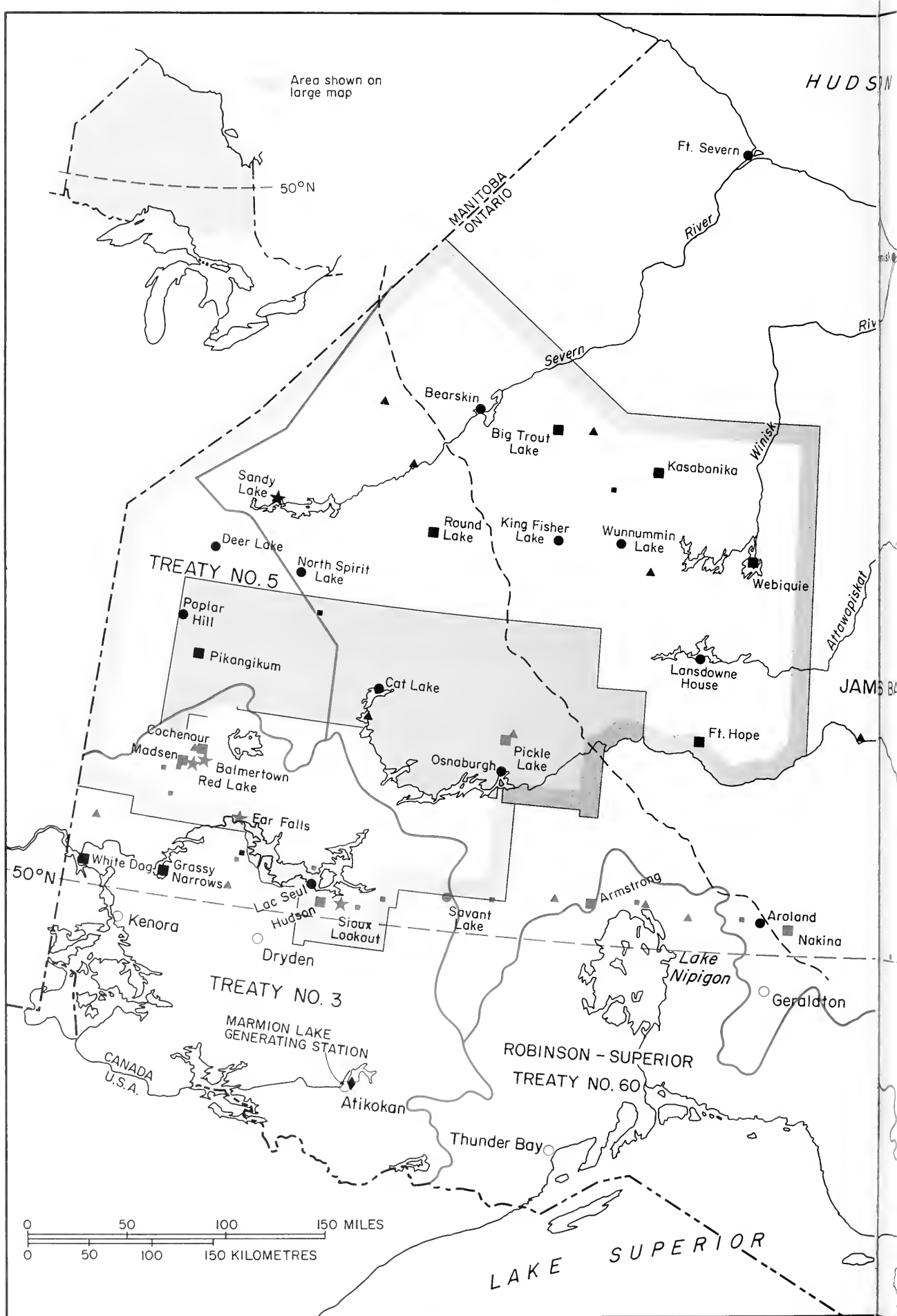
Most communities are isolated and poor, lacking in essential services. A rising population and limited opportunities for employment have helped to cause increasing dependence on Federal transfer payments. With little means to improve their situation, many Indians appear to have lost hope and rely increasingly on welfare. Others have gravitated to southern centres to seek wage employment, only to face problems of adjustment and discrimination.

The central dilemma of the Indian people today flows from their constitutional position under the British North America Act. Section 91(24) of the Act grants to the Federal Government exclusive legislative authority to make laws in relation to "Indians, and Lands Reserved for the Indians" - the reserve system as defined in the Indian Act is the product of the exercise of that power. But the reserves themselves are too small to support an economic base for a people whose sole means of survival for centuries has been the land. And this creates the dilemma - for constitutionally, it is the Province that owns the land and resources necessary to provide an adequate economic base for the Indian people in Ontario.

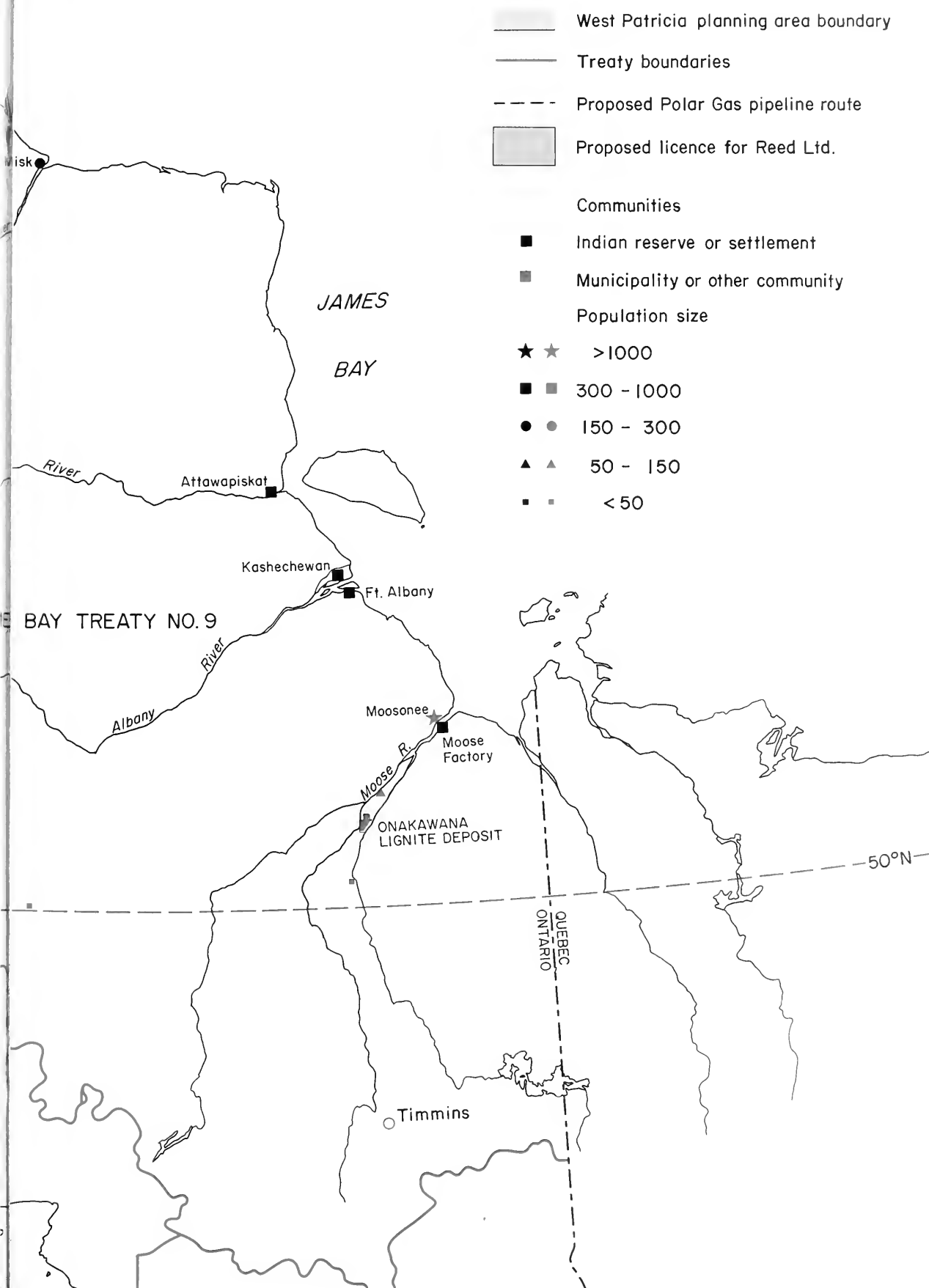
In a policy statement made to this Commission in Timmins, the Ontario Government reaffirmed its position that Ontario Crown resources belong to, and will be developed for all of the people of Ontario, including the Native people. The concern of the Indians is that the Provincial Government has failed to recognize their unique relationship with the land and failed to recognize that the development of a particular resource - for example, timber - can have impacts on the survival of other resources, such as fish, moose, caribou or beaver, which sustain their communities.

The jurisdictional situation in which the Indians find themselves results in the Federal Government assuming responsibilities in areas that normally fall within Provincial jurisdiction. While the Province supplies housing, health care, education and other services to white communities in the north, the Federal Government assumes the responsibility for supplying those same services to the Indian people.

With the Province controlling access to renewable resources that Indians need to establish an economic base, the Federal Government has substituted an increasing flow of programs of welfare and other payments to the Indian people. While remedial in intent, they have often missed their targets and have served, perhaps because of the ways in which they have occurred, to increase Indian reliance on the Department of Indian Affairs and Northern Development. With few powers of governing even their local affairs, and with the lack of their own economic base, they have had little opportunity to exercise initiatives, and the result has been, in my view, a loss of self-respect and a sense of hopelessness.



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Recently, a new spirit of pride has arisen among the Indian people. Their new organizations, the Grand Councils of Treaty 3 and Treaty 9, have been formed, and have become strong and forceful advocates of change. They seek a new and improved future for the Indian people, which I interpret as involving them in taking over control of their lives, of governing their local affairs and of gaining a guaranteed access to resources which will give them an economic base on which to build their future.

Their problem, I believe, is largely due to lack of opportunity in the communities and this lack of opportunity is directly due to the absence of a resource base. Various approaches to ensuring access to resources have been worked out in other provinces faced with northern development pressures. Perhaps the best example is the James Bay Agreement. Although controversial, it offers one type of local Indian government and a resource access-funding package which is designed to foster a large measure of economic self-sufficiency with an opportunity for preservation of a traditional lifestyle for those who wish it.

One thing is clear; the problem cannot be resolved by the Indians alone, nor by the Indians dealing only with the Federal Government. Nor do I think the answer is to treat this entire issue as a legal matter and refer any conflicts to the courts; the issue is moral and social as well as legal and such a broad range of concerns is not best dealt with by the judicial process. Direct discussions among the Indians, Federal and Provincial Governments will be required if meaningful progress is to be made. Such discussions can hopefully smooth the path of change taking place over the next few years, as well as resolve some of the questions which have been raised.

During the hearings, I was encouraged by proposals from both Grand Council Treaty 9 and the Federal Minister of Indian Affairs at Moose Factory supporting the concept of tri-partite negotiations. The official position of the Ontario Government did not go so far as this, and tended to rely more heavily on the use of the courts to resolve issues in dispute. I am optimistic, however, that all three parties will see the merit of this approach and give it their support.

A separate, but related set of problems exists for the Metis and non-status Indians. The Metis are persons of mixed Indian and European ancestry, the progeny of the first contact between the white explorers-traders and the Native peoples they encountered. Non-status Indians are persons of Indian ancestry who, for various legal reasons, are not recognized as being Indians (in terms of the Indian Act) by the Government of Canada. Both the Metis and non-status Indians are ineligible for any programs benefitting the Indians and have none of the rights that Indians might have.

There are today some 3,500 Metis and non-status Indians living near or north of 50. Because of their Indian ancestry, they find that white society rejects them as equals. They do not share equitably in employment opportunities and wealth. Many are unemployed and are forced into situations which they find degrading and totally unsatisfactory.

For the most part, the Metis and non-status Indians want development and a share in its benefits, but not at any cost. They, too, have a reliance upon the land. Many of them continue to hunt, trap and fish which is a life-style they share with the status Indian. The Commission was told, however, how the Metis and non-status Indians are often as unwelcome on the reserves as they are in white society. Unlike the status Indians, they do not even have broken treaty promises to support their cry for justice. The Metis and non-status Indians must not become the forgotten people in attempts to resolve the issues dividing the white and Treaty Indian peoples of the north.

In one sense, the position of the Native people in the north is illustrative of a general dilemma facing our present society. The nature and structure of that society has the effect of designating as "unneeded" an ever increasing number of people - that trend must be reversed. It is a fundamental function of any truly human society to provide each citizen with an opportunity to contribute meaningfully to that society, and in return be affirmed by it. To accomplish this will involve fundamental conceptual and structural change.

It is my impression from the hearings that many people have a sense that we, as a society, are being propelled in inappropriate directions, but so far there has been a failure to provide any real options. The Indian people have a completely different social and cultural orientation which could provide an important object lesson for the rest of us. Empathetic recognition of what it means to have a different way of looking at and understanding the world could be the first step to a wholly new appreciation of the limitations of our own present consciousness and in the examination of an alternate direction in which society may move.

Two major issues brought before the Commission during the preliminary meetings are illustrative of the dilemma facing the Native people. These two situations are also of such importance that I feel it is my responsibility to bring them forward for specific attention.

Mercury

The major source of mercury problems in the English and Wabigoon River systems lies below the 50th parallel at Dryden, where Reed Ltd. previously released considerable quantities of effluent containing mercury into the river system. The Indian communities of Whitedog and Grassy Narrows, as well as a number of lodges, lie above the 50th parallel in our defined study area and within the area affected by the mercury. I have spoken to the people of Whitedog and Grassy Narrows, received submissions and held independent discussions. Even with the short exposure that I have had to the problem, I can describe the current situation in one word - intolerable. I saw the despair and fear of the residents of these communities; despair over a situation which is not of their making and over which they have no control; fear for themselves and their children that the effects of mercury poisoning will one day strike or has perhaps already struck some of them. One sees the despair and fear reflected in violence turned inwards, in assaults, suicides and an attitude of hopelessness. One also cannot but be concerned about the ultimate effects of the situation on the people and their actions if they are not soon given something for which to hope.

I described the situation as intolerable. I recognize that not all of the problems in Whitedog and Grassy Narrows are the result of mercury. They are affected by the many problems endemic to Indian communities, in part because of the impact of development. Mercury has, however, been the added factor which has pushed the situation into the intolerable. It is also not to say that nothing has been done in the seven years since the river system was first deemed to have dangerous levels of mercury. Commercial fishing has been banned, the source of the pollution has been eliminated and the people have been warned not to eat the fish they catch although they are permitted to fish 'for fun'. One major lodge, the employer of many people from the local communities, voluntarily closed in 1972, with the stated reason being health hazards to the guests and employees. The Government of Ontario has provided substitute frozen fish to local communities in place of those normally taken from the rivers. The Government has also made proposals to move the Indians to other locations. A Federal-Provincial committee continues to examine the problems. The Government appears to think that all that can be done is being done, and that the Indian people and the lodge owners should recognize this.

I think that the whole impasse reflects clearly the chasm of understanding between the predominant white perception and the Native perception of the problem. The Indian people simply cannot move, change their way of life, change their diet, live on welfare, lose their self-esteem and yet remain the same people. And of one thing I have been convinced: the Native people value their traditions. The land is not simply a place to live. It forms a symbiotic relationship with the people and the animals which cannot be wrenched apart without serious consequences. It is difficult to bridge a cultural gap and to understand other people's motives, but unless we do, we will continue to face apparently insoluble problems. It is also difficult to find alternative resources and means of employment to the commercial fishing and guiding, lost when mercury was found in the river, but this must be done.

As the people of Whitedog and Grassy Narrows wait, the arguments go on about proof of Minemata disease, and epidemiological studies; valid as these considerations may be, surely we must not await absolute scientific proof to recognize that there is a serious problem which must be rectified. The situation cannot continue to drag on year by year. Confidence must be restored to the people and they must feel that Governments are interested in, and will seriously consider, their proposals for resolving the impasse. To ensure that their ideas are given proper attention, and to further ensure that jurisdictional problems and bureaucratic red tape do not hinder constructive suggestions, immediate tri-partite discussions must commence, in my view, which will take full account of the wishes and needs of the people of Whitedog and Grassy Narrows.

Wild Rice

The issue of wild rice, like that of mercury, in my view, is an indication of the Government's attitudes and intentions towards the Indian population of the northwest. The two sides of the argument are far apart. Some Government officials feel that the Indians are not efficiently harvesting the wild rice and are allowing large quantities to go to waste. The Indians blame lack of harvesting on water level fluctuations due to control dams over which they have no influence. The same officials feel that an enhanced local industry could be created by providing more licences on Crown land to white entrepreneurs who would utilize mechanical harvesters and efficient production and harvesting techniques. The Indians fear that they will not be able to compete with expensive white technology and that this important source of income and employment will be lost to them. One despairs of the technical arguments over yields and potential harvests which are not subject to open debate and which tend to obscure more important issues. I find it easy to understand the Indian's fears as he sees his canoe and paddle pitted against mechanical harvesters in the battle for efficient production.

It raises the question as to whether the Indians, if given the chance, could not themselves expand this already substantial industry in the areas where they now

harvest and thus increase the harvest and reap the benefits. One wonders why this one resource could not be left to their use, if they show that they can use it, since virtually all other resources are controlled by the white population. We learned of a pilot project, initiated by one Indian community, which succeeded in stabilizing the harvest and increasing production. The implication would appear to be that, given some technical and financial assistance, the Indians could very well improve the wild rice harvesting operations themselves. The results would be immensely important, in terms of greater employment, less reliance on welfare, greater self-esteem and self-reliance, as well as experience in developing and managing a small resource industry.

Another aspect of the situation must be kept in mind, however, and not obscured by the purely local debate. Wild rice is potentially a very important cereal crop not just in Northwestern Ontario, but throughout northern regions of Canada and the United States. Considerable research is being undertaken in Minnesota, which will doubtless lead to improved strains, growing methods and harvesting. The result is that Ontario could very well lose out or suffer a set-back in terms of its future ability to benefit from this potentially significant resource. It is necessary and desirable, in my view, to ensure that Ontario does not miss the opportunity to participate in this important economic activity in the future, while at the same time, utilizing wild rice as a component of a revitalized economic base for the Native people.

VIII. PROPOSALS FOR ACTION

Eight months have passed since this Commission was formally established on July 13, 1977. Given the magnitude of the tasks assigned to it, this is admittedly a short period of time in which to form judgments. But I have heard, seen and learned enough to be truly convinced that certain concerns and situations should be addressed immediately. I am convinced that for this Commission to be useful, it must focus on a number of specific endeavours. To do otherwise would only cause further frustration to many northerners and more expenditure of public funds on a study rather than action.

The terms of reference of the Commission, although very broad, provide a focus for examining:

- environmental effects of major enterprises north of 50;
- methods to assess environmental effects and make decisions concerning such enterprises;
- feasibility and desirability of alternatives to such enterprises.

In what follows, I have tried to define a program to meet my mandate and also to ensure that the related individual social issues are dealt with by northerners themselves, drawing upon northern expertise.

Environmental Assessment

The proposed lignite mine of Onakawana Development Limited and the proposed forestry complex of Reed Ltd. have been designated as undertakings under the Environmental Assessment Act by the Ontario Government. I discussed earlier in the report the concerns raised at the preliminary meetings that the environmental assessment process, as defined by the Act, has been insufficiently tested and is too narrow in its provisions to be acceptable to some northerners.

Concerns have been voiced about the application of the Environmental Assessment Act to the Onakawana project. Questions have also been raised about whether the present Environmental Assessment Board is the appropriate mechanism to consider local concerns and objectives. Assurances are being demanded that the impact on northerners be carefully evaluated and that specific considerations, such as employment opportunities, be incorporated into the assessment. Clearly, affected groups and communities must be involved in defining the scope of the assessment which the proponent will carry out. Although there is no requirement in the Act that the proponent involve local groups in defining the scope of his assessment, he is clearly foolish not to do so.

It appears to me somewhat premature to condemn the application of the Act to the Onakawana situation before anyone has seen how it will be applied. On the other hand, there is no point in being blind to the objections which have been brought forward, since dispute at the beginning of the assessment process could very well lead to costly and frustrating delays later.

I believe that the assessment of the Onakawana project under the Environmental Assessment Act should proceed, but that the lack of experience in operating under its provisions should be recognized. I am convinced that the process envisaged by the Act is essentially a good one. It should have the opportunity to be tested and any weaknesses in its provisions identified. It is these weaknesses that the Commission must identify in order to meet its mandate of suggesting better methods for assessing environmental effects of major northern enterprises in the future.

To me it is obvious that in furtherance of this mandate, it is essential that the Commission should play an observing and counselling role in this first opportunity to test the Environmental Assessment Act process in relation to a major non-renewable resource project in the study area.

The primary objective is to help ensure that the social, economic and cultural concerns of local affected residents are fairly considered. They, and the residents of Ontario, should benefit from the development if it does proceed, to the maximum degree possible. In furtherance of this, I recommend that:

Onakawana Development Limited and the Ministry of the Environment should take immediate steps to discuss fully and openly the planned environmental assessment of the proposed lignite mine south of Moosonee with local communities and affected groups and that the company undertake to meet their concerns in its assessment.

... Recommendation #1

Turning to the Reed proposal, plans for development of a major forestry complex no longer appear to be active. The appropriate use of the 19,000 square mile 'Reed tract' is still undetermined. In fact, this issue is only part of the broader West Patricia Land Use Planning project currently being carried out by the Ministry of Natural Resources as part of its province-wide Strategic Land Use Plan. It is important that the nature of strategic land use planning, in general, and of the West Patricia Plan, in particular, be understood. These are no more than means whereby the Ministry of Natural Resources coordinates its diverse programs and responsibilities, and attempts to reconcile any conflicts which may arise among them.

The West Patricia Land Use Plan will define the type of enterprises which can be developed in this broad geographical area which contains the bulk of remaining renewable forest resources north of 50. The planning process does not specifically provide for incorporation of broader concerns and objectives or for a wider range of programs, such as job training, social services or cultural safeguards. It does not encompass alternative approaches to development designed to foster local economic stability or to harmonize with local cultural patterns if these approaches would be inconsistent with Ministry objectives.

All components of the Strategic Land Use Plan, including that relating to the West Patricia area, will be subject to an environmental assessment under the provisions of the Environmental Assessment Act. Any deficiencies will not by any means be fully rectified by the environmental assessment process. It may identify some adverse consequences of the plan, but it was not designed to promote the development of constructive options or the adoption of positive programs. For this, a more appropriate vehicle would appear to be the "Design for Development" program, which has recently published "A Strategy for Development" for Northwestern Ontario, although again questions have been raised regarding the degree of public participation and the document's orientation to south of 50.

In my view, the West Patricia area is of critical importance in defining future resource development directions in the north. In addition to the large timber resource, questions can and will be raised regarding trade-offs among alternative

land uses for tourism and recreation, trapping, fishing and other pursuits affecting both Indians and non-Indians alike. There is an evident need for a planning process which is not only sensitive to community goals and priorities, but also provides an integrated and comprehensive response to problems that northern resource and industrial development can generate. I believe that a critical review of the West Patricia Land Use Plan as it develops, in relation to other Provincial planning, would illuminate present deficiencies and indicate what basic characteristics the new process should possess. I believe that the Commission should undertake the task of bringing the West Patricia Land Use Planning process more effectively to the public, and should ensure that alternatives are fully examined. The result would be that the Ministry of Natural Resources, in effect, becomes a proponent, and their West Patricia Plan an input, as would the preferences of other concerned groups. By early 1980, it will thus be possible to arrive at a land use plan based on much broader considerations than would otherwise be the case, and secondly, to provide guidelines for such planning in the future. Through this case study, the Commission will be able to examine the wide range of matters identified in its terms of reference, and bring forward appropriate recommendations to the Government.

I recommend that:

A complete review and assessment of the West Patricia Planning process, in relation to other relevant programs of the Ontario Government, and with special emphasis on the 'Reed tract', should be carried out by the Commission, with the proposals of the Ministry of Natural Resources being considered as the focal point of the review.

... Recommendation #2

Satisfactory consideration of the land use planning alternatives is to some degree dependent upon resolution of how forestry will be carried out in the north. As mentioned earlier in the report, a large number of briefs called for more careful management and effective regeneration of the northern forest resources. This problem, when examined, brings to the fore questions of the wide impact of forestry policy on other activities in the north. Ineffective forest management practices lead to inefficient and excessive use of the land, thus precluding its allocation for other purposes, such as parks and recreation. In addition, such activities as recreation, hunting and trapping are dependent upon how forest

management is carried out.

The Commission was originally established, in part, due to concerns regarding the use of the 19,000 square mile 'Reed tract' of land for timber harvesting and even given the prevailing uncertainty about the future of the Reed proposal, there is no doubt that with the current forest management practices, the land will be under pressure for utilization before very long. It is my understanding that the Ministry of Natural Resources intends to submit its forest management procedures for an environmental assessment by July, 1978; I strongly support this action.

Northern Task Force

While meeting the needs of Indians and their communities is crucial to future resource development in Northern Ontario, there are also the needs of the people who are able to live in the North because of development. These, too, merit recognition. In a sense, these needs reflect the local, social and economic effects of the major enterprises around which many northern communities have grown.

The economies of these communities are precarious, and their claim to public amenities limited. The power of these residents to influence government decisions concerning their future is affected by distance, by a provincial public service centred at Queen's Park, or perhaps Thunder Bay, and by the political reality that faces any small population isolated in the hinterland. One result of inadequate northern involvement is deficiencies in the design of programs responding, in most instances, to the social, economic and cultural effects of major development.

The feeling of alienation among northern residents has been expressed to me time and time again, often with what appeared to be justifiable emotion. Northerners consider that government is not accessible to them. Admittedly, people live in Northern Ontario because they choose to do so, or their parents or grandparents chose before them. This does not mean, however, that they have forfeited their right to have a say in the decisions of Government which clearly affect their lives, nor to help find ways to stimulate the economic bases of their communities. Even with the powers of local Government, northerners seek greater and more effective

involvement in the decisions that shape their future just as the Indian people seek the capacity to govern their own local affairs.

I believe that the best way to help combat this feeling of alienation in the north is to involve northerners in every level of Government operations which touches them. I also believe that northerners themselves must discover and recommend the ways and means of having this happen - that Government reflects their special concerns, their particular priorities.

I have been searching for a catalyst, for a method that would bring northerners together to examine their relationship with Government and devise improvements.

I recommend that:

A task force of northern residents should be appointed to investigate and recommend ways for the people of the North to become effectively involved in the making of decisions by Government Ministries and Agencies that affect their lives and communities.

....Recommendation #3

The Task Force should be relatively small, having perhaps eight to ten members, some of whom could be representatives of interested organizations. It should be chaired by a respected northerner. Viewpoints of northern municipalities, Native people, unorganized territories, local education, and social services would be necessary within the Task Force. It should not be considered necessary to represent each specific interest in the north on the Task Force or it will become unwieldy. Individuals should be chosen because of the breadth or relevance of their experience. I would hope that the Task Force would stimulate dialogue with concerned northerners on many of the points raised during the preliminary meetings.

It will be necessary to provide the Task Force with adequate funds for travel and necessary staff support. The Task Force should be given wide latitude in determining its terms of reference and approach but should be charged with bringing forward recommendations to the Commission for action by the Government within twelve months from its establishment. The base of operations of the

of the Task Force should be in a community north of 50. There would be, I hope, regular liaison and coordination with the Commission.

One other matter merits discussion at this point. The Commission intends to bring to the Government's attention many of the problems and issues raised at the preliminary meetings which have not been referred to in these pages. Although we are in no position to judge the validity of all these concerns and would expect the Government to deal directly with the concerned public, there is nevertheless a need for someone to monitor the Government's responses. It is my view that the Task Force would provide the most appropriate mechanism for accomplishing this.

Future Operations of the Commission

Questions have been raised about a southerner being charged with the responsibility for an inquiry of this type. Concern has been expressed that many of our staff and operations have been resident in Toronto. I am not insensitive to these concerns. Clearly, neither I nor my staff can hope to acquire in a short period of time the detailed knowledge and feeling of the north which lifelong residents have. Nonetheless, I would suggest one justification for our approach to date. The fact that we, as southerners, have been so affected and influenced by the problems of the north seems to me a greater testimony to their seriousness than if a group of northern residents had come to the same conclusions. I do agree, however, that the Commission must now establish itself in the north, avail itself of northern expertise and be readily accessible to northern people.

The Commission should establish offices in both Northeastern and Northwestern Ontario; the former to be oriented towards the Commission's ongoing involvement with the Onakawana project; the latter oriented towards the land use planning process for the West Patricia region. The staff supporting the Northern Task Force would also be located in the north. It would also be my intention that northerners be employed in staffing these offices. In addition, it will be essential to have a small general coordinating function located in Toronto in proximity to Government head offices.

It is my opinion that the Commission should be directed to table its final report within three years from its original appointment (July 1977) and that its work should be done within a set budget. A major effort will be made to fully involve the affected public and to broadly solicit views. The Commission, consistent with its authority, will provide financial assistance to groups which are directly concerned with or affected by the projects under investigation in order to ensure that all relevant considerations are taken into account. To facilitate this, guidelines for financial assistance will be available by April 30th, along with a tentative study plan to guide those who wish to request financial assistance. The Commission also intends to issue a report on the issues raised at the preliminary meetings, as well as a description of the north, its people, economy and other characteristics.

Through the focus of two major environmental assessments with different characteristics (Onakawana and the West Patricia Plan), a greater orientation and accessibility to the north and a carefully thought out plan of public involvement, I believe that meaningful work can be carried out by the Commission for the benefit of the people of the north.

The Indian People

I have tried to stress, throughout this report, the critical nature of the issues involving the Indian people north of 50. I believe that questions of treaty interpretation, land claims, local government, and accessibility to natural resources must be faced without delay before agreements on resource development can be reached. The alternative is for governments simply to ignore the wishes of the majority in the area, with consequent bitterness, conflict and serious effects on the Indian people.

A major focus of Indian demands involves the use of Crown land, specific land claims and accessibility to resources, all of which are related to the interpretation of the original treaties. To date, Government seems to have left these matters to be resolved by the courts. I do not believe that this is the most productive course of action to follow. Furthermore, we do not have the luxury of time for a legal

resolution. Already, the pressures of rapid population growth, of migration from the reserves to northern towns and of escalating welfare and other Provincial and Federal costs are imposing their own horizons.

It is time to explore an approach based on negotiation and the acceptance of mutual responsibilities. There are unique and essential roles for each of the three basic participants: The Federal Government, because of its authority for Indians under the British North American Act; the Provincial Government through its ownership of the land and its actions in controlling and facilitating economic development in Ontario; and the Indians because of their particular constitutional status. In addition, it is important to recognize the vital interest of affected municipalities in all discussions and decisions. Although it would be the responsibility of the Provincial representatives to advance, in a general way, municipal concerns, I believe it essential, depending upon the particular issue under discussion, that representatives of affected municipalities become at the earliest possible time a fully functional part of the particular groups discussing these issues.

Although this is a new approach in Ontario, it is really not innovative. In the recent past, on an ad hoc basis, similar arrangements have been used in other parts of the country. What is suggested here is a structure of a more permanent nature, in the sense of having available a continuing, flexible forum for negotiation and decision-making. In fact, in those aspects of Government where jurisdictions overlap or relationships are unclear, such arrangements may increasingly become a necessary part of the process of Government.

The basic format of a tri-partite committee is a three-part body, with representatives of the Federal and Provincial Governments, and of the Indian people. The meetings should be coordinated by a small Secretariat, which would have to be acceptable at all times to all three parties. It is essential that all parties have equal access to information and resources if they are to participate effectively. It is impossible at this stage to specify the format, style or content of the negotiations which would ensue; this must be the responsibility of the parties involved. At all times, the committee must be self-legitimizing, bound together only by the participants' will and commitment that it continue. If it fails,

traditional Government approaches return to fill the vacuum.

The structure proposed is not exclusively tri-partite. It must be flexible enough to accommodate other parties, namely, other levels of Government, Crown corporations, companies or whoever is necessary to facilitate the decision-making-by-negotiation process. In this instance, the fundamental objective of the Indian people is to regain control over their own lives and to have self-sustaining communities. To do this, they need some economic substitute for the Federal transfer payments on which they have become all too dependent. Accordingly, at initial meetings of the committee, it is essential that the issues of Indian community government and of access to natural resources be addressed.

I recommend that:

A committee should be formed, composed of ministerial-level representatives of the Federal and Ontario Governments and representatives of the Indian people. The Committee would attempt to resolve, through negotiation, issues raised by its members, and in particular would address questions of devolution of authority to govern local affairs and access to resources for the Indian people. A small Secretariat, acceptable to all parties, should be established to support the committee.

.... Recommendation #4

Nowhere in the North is there a more urgent need to rebuild confidence, to restore some semblance of economic self-sufficiency, than in the shattered communities of Whitedog and Grassy Narrows, affected and oppressed by mercury pollution of the English-Wabigoon river system, and the consequent destruction of their local economies. What justification for immediate government action is required here other than common decency and the restoration of human dignity?

As the residents of Whitedog made clear to the Commission, jurisdictional conflicts must be resolved before their community can be restored to economic and social health. It is also clear that conventional governmental processes have failed to resolve these conflicts over the last eight years. It is time to try a new approach, one based on negotiation rather than confrontation.

I suggest that the very first task of the tri-partite committee should be to resolve this impasse. The intent should be simply to begin the process of rebuilding these communities; other questions, such as legal liability and compensation, should be left to other forums.

To expedite its task, the tri-partite committee will need a rapid evaluation of all previous investigations conducted by the Federal and Provincial Governments. I suggest that it immediately appoint a fact finder, who should also have the authority to explore with the communities means of re-establishing a sustainable economic base.

I recommend that:

As its first priority, the committee should address the plight of the Indian communities of Whitedog and Grassy Narrows. Methods to ensure access to resources and viable community economies, along with related supportive programs should be considered jointly by the Committee and the communities. To facilitate this, a mutually acceptable fact finder should be appointed to review and report on available information and options within 90 days.

.... Recommendation #5

Earlier, I discussed at length the question of wild rice, and its important place in the economic and social life of the Native people. It is my opinion that this crop offers great potential to become a viable, growing industry and could very well provide a basis for economic self-sufficiency for many northern residents. I sincerely believe that the Indian people should be given the chance to show what they can do with this resource, and that they should be given technical and financial assistance. I also feel that they should be given time, and allowed to learn and to make their own mistakes, as others do, and not be overly guided by well-meaning experts or bureaucrats.

I recommend that:

The Government of Ontario should not implement any new policy on wild rice which would weaken the Indians' position in this industry in the north. During the next five years, the Indians should be given the opportunity to develop a viable wild rice industry on their own. To foster this, no new licences to harvest rice should be granted to non-Indians during this period. The Government should provide assistance, for example, by examining the influence of water control structures on the productivity of the harvests, by appropriate research into improved growing and harvesting methods, and by necessary training programs.

.... Recommendation #6

IX. CONCLUSION

Although the prospect exists for the development of a number of major resource based enterprises in the north, economic and world market realities make it unlikely that most of the projects described in this report will occur within the next decade. The fact is that development of our northern resources is difficult and expensive. This, coupled with government regulations, means that it takes considerable time to plan and initiate developments.

It is in this light that the suggestions I have heard for a general moratorium on development north of 50 must be considered. I was told that my recommendations would be a "hollow travesty" and "an empty gesture" should there not be a moratorium on development for the life of the Commission. Many of those who expressed these views were, I think, motivated by concern for the present unacceptable circumstances of the Indian people. I share this motivation. Resource development should not proceed until both the Federal and Provincial Governments become jointly and firmly committed to establishing an economic base for Indian people residing in the north, but to call for a general moratorium on development, even for a two or three year period, could needlessly cause hardship, increase unemployment, and delay benefits to people which can flow from well planned ventures.

Since there is currently a slowdown in the pace of resource exploitation in the north, we have the opportunity to plan development, to determine its appropriate scale for people, and to assess the environmental implications without the severe pressures that could be imposed by a series of imminent massive projects. What is clear is that we cannot lose time in easing the desperate situation of many of the northern Indian people. This will involve settling what rights they should have over the use and control of Northern resources. Resolving this will help to remove some of the uncertainties which now cloud future development in the North.

X.

SUMMARY OF RECOMMENDATIONS
AND PROPOSALS FOR ACTION

It is my recommendation that:

- (1) Onakawana Development Limited and the Ministry of the Environment should take immediate steps to discuss fully and openly the planned environmental assessment of the proposed lignite mine south of Moosonee with local communities and affected groups and that the company undertake to meet their concerns in its assessment.

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- (2) A complete review and assessment of the West Patricia Planning process, in relation to other relevant programs of the Ontario Government, and with special emphasis on the 'Reed tract', should be carried out by the Commission, with the proposals of the Ministry of Natural Resources being considered as the focal point of the review.

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- (3) A task force of northern residents should be appointed to investigate and recommend ways for the people of the North to become effectively involved in the making of decisions by Government Ministries and Agencies that affect their lives and communities.

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- (4) A committee should be formed, composed of ministerial-level representatives of the Federal and Ontario Governments and representatives of the Indian people. The Committee would attempt to resolve, through negotiation, issues raised by its members, and in particular would address questions of devolution of authority to govern local affairs and access to resources for the Indian people. A small Secretariat, acceptable to all parties, should be established to support the committee.

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- (5) As its first priority, the committee should address the plight of the Indian communities of Whitedog and Grassy Narrows. Methods to ensure access to resources and viable community economies, along with related supportive programs should be considered jointly by the Committee and the communities. To facilitate this, a mutually acceptable fact finder should be appointed to review and report on available information and options within 90 days.

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- (6) The Government of Ontario should not implement any new policy on wild rice which would weaken the Indians' position in this industry in the north. During the next five years, the Indians should be given the opportunity to develop a viable wild rice industry on their own. To foster this, no new licences to harvest rice should be granted to non-Indians during this period. The Government should provide assistance, for example, by examining the influence of water control structures on the productivity of the harvests, by appropriate research into improved growing and harvesting methods, and by necessary training programs.

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O.C. 1900/77

Copy of an Order-in-Council approved by His Honour the Administrator of the Government of the Province of Ontario, dated the 13th day of July, A.D. 1977.

The Committee of Council have had under consideration the report of the Honourable the Minister of the Environment, wherein he states that,

Recognizing that major enterprises and related technologies in that part of Ontario that is north or generally north of the 50th parallel of north latitude for the use of natural resources could have significant beneficial and adverse effects on the environment, as defined in Schedule A, for the people of Ontario and in particular those people of Ontario who live north of the 50th parallel.

Recognizing further that any such effects on the environment are hereby declared to be a matter of public concern,

Recognizing further that the purpose of The Environmental Assessment Act, 1975, is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment,

The Honourable the Minister of the Environment recommends that the Honourable Mr. Justice Patrick Hartt, a Justice of the Supreme Court of Ontario, be appointed a commission pursuant to the provisions of The Public Inquiries Act, 1971, effective the 13th day of July, 1977:

1. to inquire into any beneficial and adverse effects on the environment as defined in Schedule A, for the people of Ontario of any public or private enterprise, which, in the opinion of the commission, is a major enterprise north or generally north of the 50th parallel of north latitude, such as those related to harvesting, supply and use of timber resources, mining, milling, smelting, oil and gas extraction, hydro-electric development, nuclear power development, water use, tourism and recreation, transportation, communications or pipelines,

2. to inquire into methods that should be used in the future to assess, evaluate and make decisions concerning the effects on the environment of such major enterprises;
3. to investigate the feasibility and desirability of alternative undertakings north or generally north of the 50th parallel of north latitude, for the benefit of the environment as defined in Schedule A;
4. to report and make such recommendations to the Minister of the Environment from time to time and as expeditiously as possible with respect to the subject matter of the inquiry as the commission deems necessary and desirable to carry out the purpose of The Environmental Assessment Act, 1975.

The Honourable the Minister of the Environment further recommends that

5. all the ministries, boards, agencies and committees of the Government of Ontario be directed to assist the commission to the fullest extent,
6. the commission be authorized to engage such counsel, research and other staff and technical advisers as it deems proper for the purpose of carrying out the commission at rates of remuneration and reimbursement to be approved by the Management Board of Cabinet;
7. the commission be authorized to distribute funds to such persons as in its discretion, having regard to the criteria in Schedule B, it deems advisable for the purpose of ensuring effective participation by the public in the inquiry.

The Committee of Council concur in the recommendation of the Honourable the Minister of the Environment and advise that the same be acted on.

Certified,


Deputy Clerk, Executive Council.

SCHEDULE A

"Environment" means,

- (i) air, land or water,
- (ii) plant and animal life, including man,
- (iii) the social, economic and cultural conditions that influence the life of man or a community,

- (iv) any building, structure, machine or other device or thing made by man,
- (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man,
or
- (vi) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Ontario.

SCHEDULE B

CRITERIA FOR FUNDING OR PARTICIPATION IN INQUIRY

These criteria are intended to assist the commission in distributing the available funds in the fairest possible way so as to ensure effective public participation in the inquiry.

1. Representation of Wide Range of Interests

The parties assisted should be representative of the various interests which are directly or indirectly affected by the matters subject to the inquiry. It may not be feasible or practicable to fund representatives of all or any groups to the extent they feel necessary or desirable.

2. Avoidance of Duplication

Consideration may be given to encouraging the coalescence of individuals or groups with similar interests. An incentive could be provided to groups or individuals who are willing to work together and combine their presentations for the inquiry.

3. Representation of Various Geographic Areas

Funding may be allocated to representative of concerned groups or individuals who do not live or work immediately adjacent to the proposed development but who have substantial and direct interest in the subject-matter of the inquiry.

4. Allocation of Limited Funds

Within the context of the above criteria, in determining which applications for funding should be accepted, the commission may give consideration to the following specific guidelines:

- the applicant for funding should be one who the commission is satisfied, has a direct and substantial interest in the subject-matter of the inquiry,

- it should be clear to the commission that separate and adequate representation of that interest will make a necessary and substantial contribution to the hearing,
- those seeking assistance should have an established record of concern for, and should have demonstrated their own commitment to, the interests they seek to represent,
- it should be shown to the satisfaction of the commission that those seeking assistance do not have sufficient financial resources to enable them to represent adequately that interest in the hearing under consideration, and will require the assistance to enable them to do so,
- those seeking assistance should have a clear proposal as to the use they intend to make of the funds, and should be willing to make a commitment to account for the funds.

5. Determination of Specific Requirements

In determining whether to provide assistance and the amount of assistance to provide, the commission may consider:

- the length of time required for preparation of the presentation,
- non-monetary subsidies or other monetary inputs available to the individual or group applying for assistance,
- the number of paid employees who will be participating in the preparation of the presentation,
- the number of people represented by the group.

